

Supreme Court of Kentucky

ORDER

**IN RE: ORDER APPROVING THE AMENDED RULES OF COURT
PRACTICE AND PROCEDURE FOR THE 41ST JUDICIAL
DISTRICT COURT, CLAY, JACKSON, AND LESLIE COUNTIES**

Upon recommendation of the Judges of the 41st Judicial District, and
being otherwise sufficiently advised,

The Amended Rules of Court Practice and Procedure for the 41st Judicial
District, Clay, Jackson, and Leslie counties, are hereby approved. This order
shall be effective as of the date of this Order, and shall remain in effect until
further orders of this court.

Entered this the 25th day of September 2015.


CHIEF JUSTICE JOHN D. MINTON, JR.

**COMMONWEALTH OF KENTUCKY
41ST JUDICIAL DISTRICT**

**AMENDED
RULES OF DISTRICT COURT
PRACTICE AND PROCEDURE**

PREAMBLE

The following Rules of Practice and Procedure are adopted in order to promote and facilitate the fair and efficient administration of justice in the District Courts of the 41st Judicial District. These rules are designed to inform the public as to how the court system operates, to assist the practitioner in the practicing of cases, and generally to seek to promote the dignity of and respect for the local court system. The overriding purpose of these rules is to provide for the fair, prompt and consistent administration of justice in the local court system.

I. GENERAL PROVISIONS

101. COURTS OF THE 41ST JUDICIAL DISTRICT

- (a) There are three (3) District Courts in the 41st Judicial District: Clay District Court, Jackson District Court and Leslie District Court. Clay District Court holds sessions at 316 Main Street, Clay County Judicial Center, Second Floor, Manchester, Kentucky. Jackson District Court holds sessions in the Jackson County Judicial Center, Second Floor, 100 First Street, McKee, Kentucky. Leslie District Court holds session in the Judicial ANNEX, next to the Leslie County Courthouse at 22010 Main Street, Hyden, Kentucky.
- (b) The 41st Judicial District, District Court has two divisions. The divisions are designated as 1st and 2nd, with each division assigned to 1 District Judge.

102. COURT SESSIONS

The Court divisions specified above hold sessions of Court, in the respective Counties in the District, during alternating weeks. Specifically, in the week that the Division 1 Judge holds Court in Jackson and Leslie Counties, the Division 2 Judge holds Court in Clay County, and the next week, the Division 1 Judge will hold Court in Clay County and the Division 2 Judge will hold Court in Jackson and Leslie Counties. Each division hears civil and probate cases and juvenile cases on at least one Wednesday each month on the Clay County docket. Further, each division hears civil and probate and juvenile cases each Monday on its respective Jackson District and Leslie District Court docket. To obtain specific Court dates for scheduling motions in any of the counties in the District, counsel or parties should contact the Circuit Clerk for the respective County.

II. CRIMINAL PRACTICE

201. MOTIONS

To facilitate the preparation of motion dockets and preparation by the Court, all motions must be in writing and should be filed with the circuit clerk and served on opposing counsel not later than seventy-two (72) hours prior to the scheduled hearing, excluding Saturdays, Sundays and holidays, if service is made in person or by fax. If copies to opposing counsel are served by mail, said motion must be filed and served not later than five (5) days prior to the day of the scheduled hearing. Copies of all motions filed, shall be served or mailed to the District Judge. Counsel may set Motions to be heard on the regular hearing docket of the respective Court. With regard to cases which are scheduled for Trial, all dispositive motions, discovery issues, motions to continue and foreseeable evidentiary motions, so far as possible, shall be scheduled to be heard on date of Pretrial Conference or a date prior to the day of trial.

202. COPIES TO COURT

Counsel shall mail, e-mail or hand deliver a copy of each written motion to the Court when the original is filed with the Clerk's Office. This will allow the

Court to review the Motion and supporting memoranda or affidavits prior to the hearing.

203. PRETRAIL CONFERENCES (Jury or Bench Trials)

Pretrial Conferences will be scheduled and held as a matter of course in all criminal and traffic cases. If a plea arrangement cannot be reached, a date for trial will be set.

204. GUILTY PLEAS (Jury or Bench Trials)

When the Defendant's case has been scheduled for bench trial or jury trial, all reasonable efforts should be made to prevent unnecessary delay of the trial and inconvenience to the jury, if applicable. Attorneys and defendants are to use their best efforts toward settlement and should exercise all reasonable efforts toward reaching a plea agreement.

205. CONTINUANCES (Jury and Bench Trials)

Continuances will be granted only for good cause shown.

206. TRIAL DATE (Jury and Bench Trials)

Every effort shall be made by Court and counsel to promote efficiency, to maintain decorum and to avoid inconvenience to the jury panel. All counsel, defendants, and witnesses shall be present at 9:30 a.m. on the date of trial. Counsel, defendants, and witnesses for cases which are not anticipated to be heard first shall nevertheless report and remain available for trial throughout the day. For all cases which are tried to a jury, on the date of trial, counsel for the commonwealth and the defendant shall prepare and tender to the court proposed jury instructions.

207. SEARCH WARRANTS

Copies of all search warrants and supporting affidavits shall be filed in the Clerk's Office pursuant to RCr 13.10. An executed copy shall be filed by the

executing officer in the Clerk's Office within a reasonable time after its execution. If an arrest results therefrom, the above papers shall be placed in the case jacket of the Defendant. Supporting affidavits shall be sworn to before the Circuit Judge or District Judge or before a person properly authorized by Order of this Court.

III. JUVENILE DIVISION

301. PROCEEDINGS

All proceedings in Juvenile Division shall be conducted pursuant to the Unified Juvenile Code, KRS Chapter 600 to 645, as amended.

302. MOTIONS

Motions should be filed and served as set out in Rule 201, but shall be scheduled during regular sessions of the Juvenile Division.

IV. CIVIL PRACTICE

401. TIMES FOR MOTIONS

Motions shall be scheduled for the days and times indicated on the Court schedule, as kept by the Circuit Clerk for the regular sessions of 1st and 2nd division. The Clerk's Office shall maintain a Civil Motion docket, and shall docket each motion in the order that it is filed. Counsel should contact the Clerk's Office to obtain a date for a hearing.

402. SERVICE OF MOTIONS

Motions should be in writing, except motions made orally during trial. Service of motions shall be as outlined in Rule 201.

403. CONTINUANCES

An attorney who will be unable to be present at the time set for a motion shall immediately contact the opposing attorney and attempt to establish a

mutually agreeable time for the hearing. Continuances for motions may be granted upon agreement of parties and the notification of the clerk. Should this prove unsuccessful, the party desiring a continuance shall file a motion for continuance in writing. The court will then consider the motion for continuance, and determine whether to reschedule the hearing or to conduct the hearing, in the discretion of the presiding Judge.

404. COPIES TO COURT

Counsel must mail, e-mail or hand deliver a copy of each written motion to the Court when the original is filed with the Clerk's Office. This will allow the Court to review the motion and supporting memoranda or affidavits prior to the hearing.

405. DEFAULT JUDGMENTS

A party seeking a default judgment shall first file a written motion and notice to the Defendants for such judgment. All such motions may be heard and scheduled on a Motion Docket. The judgment must also contain a statement by the attorney for the party seeking such a judgment conforming to the certificate required by Kentucky Civil Rule 55.01. Court appearance by attorney representing party seeking default judgment shall be mandatory, and absent an appearance by counsel to present the motion, the Court will pass the motion to be re-noticed.

406. JURY TRIALS

A party desiring a jury trial on a civil action must demand it as provided in Kentucky Civil Rule 38.02. Otherwise, the Court will consider any right thereto waived, and the trial, if any, will be by the Court.

407. PRETRIAL CONFERENCES (Jury or Bench Trials)

In advance of Jury or bench trials in civil actions, the court directs the parties and their counsel to confer for the purpose of exploring settlement and at the least to discuss and narrow the issues. Parties should be prepared to stipulate facts as to the admissibility of certain documents or others items of evidence, to agree upon the issues to be tried, and to tender proposed instructions.

408. TRIAL DATE (Jury or Bench Trials)

Every effort shall be made by Court and counsel to promote efficiency, to maintain decorum and to avoid inconvenience to the jury panel. All counsel, parties and witnesses shall be present at 9:30 a.m. on the date of trial. Counsel, parties and witnesses for cases which are not anticipated to be heard first shall nevertheless report and remain available for trial throughout the day.

V. PROBATE PRACTICE

501. PETITIONS FOR PROBATE

To commence the probate of a decedent's estate, a petition for the appointment of a fiduciary, probate of a will, or similar initial pleading shall be filed in the Probate Division of the Clerk's Office, and all required fees paid.

502. PROOF OF THE EXECUTION OF WILLS

No Will offered for probate will be accepted unless proof is submitted to the Court regarding its due execution. In instances where the tendered Last Will and Testament is not "self-proving" as defined in the applicable statute, this proof may be in the form of oral testimony before the Court, or the Court may, in its discretion, receive such proof in the form of a sworn deposition or affidavit.

503. NOTICE AND WAIVER

Notice of the hearing on the appointment must be given to all heirs at law of the decedent. This notice must be in writing. Notice may be by ordinary mail at least five (5) days before the hearing. Proof of service shall be filed in the form of a certificate of service, certifying that notice of the hearing date and purpose was mailed as required herein. In lieu of such notice, the Court will accept a written waiver from each heir indicating that s/he does not desire to attend the hearing.

504. BOND AND SURETY

The personal representative shall be required to make a bond. The amount of this bond shall be set by the court in its discretion. Surety will be excused where the Will requests that surety not be required or, in the discretion of the Court, where it is deemed unnecessary for the protection of the estate or in instances where a notarized waiver of surety is executed by all parties in interest and filed. Trust companies may pledge their capital stock in the amount of the bond.

505. PETITIONS TO DISPENSE WITH ADMINISTRATION

When there are no probatable assets, or under the appropriate circumstances, the Court may order that administration of the estate be dispensed with, as provided in the applicable provisions of the Kentucky Revised Statutes.

506. PROBATE DOCKET

The Court shall consider probate cases after they have been placed on the Probate Docket as indicated above. Walk-in probate petitions may be considered during probate dockets at the discretion of the presiding judge.

507. SETTLEMENTS

All settlements must comply with statutory requirements and be sufficiently detailed to give the Court enough information to approve them. Informal Settlements may be submitted in accordance with KRS 395.605.

508. COMPENSATION

Any request for compensation made by a personal representative or an attorney for the estate must be clearly itemized in the Final Settlement for approval by the Court.

VI. MISCELLANEOUS PROVISIONS

601. HOLIDAY SCHEDULE

The Court will observe the AOC holiday schedule and no sessions will be held on those dates designated as state holidays.

602. INTERVIEW BY PRETRIAL RELEASE OFFICER

The Court shall not set a bond for any criminal defendant that has been incarcerated, until such time that the Pretrial Release Officer has interviewed that person. After this interview, the Pretrial Release Officer will make contact with the Court and present the interview, and the on call Judge will set a bond.

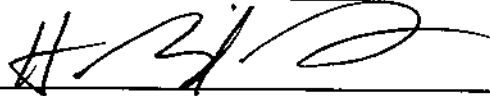
603. FACSIMILES

Facsimiles of orders and other documents signed by the Judge in criminal, juvenile, emergency mental or domestic violence cases or a photocopy thereof shall serve for all purposes as an original of said documents.

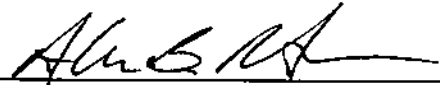
604. CITATION OF RULES

These rules may be cited as "DPR # _____ "or District Court Practice and Procedure Rules, 41st Judicial District".

Ordered and Adopted this the 9th day of SEPTEMBER, 2015.



HON. HENRIA BAILEY-LEWIS
DISTRICT JUDGE, 2ND DIVISION
CLAY, JACKSON & LESLIE COUNTIES



HON. ALLEN B. ROBERTS
DISTRICT JUDGE, 1ST DIVISION
CLAY, JACKSON & LESLIE COUNTIES